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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/511,379

10/14/2004

Josef Leitner

1716083

2098

7590

10/03/2005

Robert J Schneider
Chapman and Cutler
111 West Monroe Street
16th Floor
Chicago, IL 60603

EXAMINER

LE, MARK T

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/511,379

Applicant(s)

LEITNER ET AL.

Examiner

Mark T. Le

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/6/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear as to what is the "at least one roller bearing fixed to a stationary part of a switch", as recited in line 5 of claim 1.

The language of claim 2 is confusing - i.e. in line 2 of claim 2, it is not clear as to whether the plurality of double-armed levers are claimed as in combination with the instant claimed roller device, or the relationship between the instant claimed roller device and the plurality of levers are merely in the sense of an intended use only.

The claims should be amended to clarify the subject matters or limitations of the instant claims.

Claims 3-23 are indefinite because they depend from indefinite base claims.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-23 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Wrsecky (US 5,628,480).

Wrsecky discloses a roller device having all the features recited in the instant claims, including switch blade foot 14 that is readable as a sliding strip, first roller 101

Art Unit: 3617

near the first end of lever 5, pivot bearing 11, spring assembly 8 with adjustable spring power acting against the second end of lever 5.

Regarding the instant claimed at least one roller bearing fixed to a stationary part of a switch, note that the parts of support 4 of Vrsecky that are provided with slots for receiving pivot bearing 11 are readable as at least one roller bearing fixed to a stationary part of a switch.

Regarding instant claim lever having first and second arms, as recited in instant claim 1, note that the portion of lever 5 of Vrsecky that extends from pivot 9 to pivot 11 is readable as a first arm, and the portion of lever 5 of Vrsecky that extends from pivot 9 to the point of contact with spring 8 is readable as a second arm.

Regarding claim 2, as best understood, the instant claimed invention is a single roller device with a lever rather than a plurality of roller devices with a plurality of levers; therefore, the instant claimed roller device is currently treated as it is intended to be used with other roller devices with the same configuration. In the instant case, the roller device of Vrsecky is inherently capable of being used with other roller devices of the same configuration; therefore, such instant claimed intended use limitation is considered met.

Regarding the instant claimed lever arm ratio, as recited in e.g. instant claim 2 and 4, note that lever 5 of Vrsecky with the first and second arms, as described above, has the instant claimed ratio.

Regarding the instant claimed arrangement of the support (13), as recited in e.g. instant claim 6, note that support 4 of Vrsecky is fixed to the foot of rail 1 that is

Art Unit: 3617

readable as a supporting structure for support 4, and that the adjustment device of spring assembly 8 of Vrsecky is arranged outside said supporting structure, as broadly recited in the instant claim.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 571-272-6682. The examiner can normally be reached on Mon-Fri (2:00-8:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark T. Le
Primary Examiner
Art Unit 3617

mle
9/23/05